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SENATE

{ REPORT  
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### LACKAWANNA VALLEY AMERICAN HERITAGE AREA ACT OF 1999

OCTOBER 14, 1999.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural  
Resources, submitted the following

### REPORT

[To accompany S. 905]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 905) to establish the Lackawanna Valley American Heritage Area, having considered the same, reports favorably thereon with amendments and an amendment to the title and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 1, line 5, strike “American” and insert “National”
2. On page 3, line 14, strike “American” and insert “National”
3. On page 4, line 4, strike “American” and insert “National”
4. On page 4, line 23, strike “American” and insert “National”
5. On page 5, strike line 25 and all that follows through page 6, line 5 and insert “available under this Act to hire and compensate staff.”
6. On page 6, strike line 1, and all that follows through line 5
7. On page 10, line 19 after the word “entity,” insert “and”
8. On page 10, line 21 after the word “entity”, strike all that follows through line 23
9. On page 11, amend section 7(a) as follows:

“(a) TECHNICAL AND FINANCIAL ASSISTANCE.—

“(1) PROVISION OF ASSISTANCE.—The Secretary may, at the request of the management entity, provide technical and financial assistance to the management entity to develop and implement the management plan.

“(2) PRIORITY IN ASSISTANCE.—In assisting the management entity, the Secretary shall give priority to actions that assist in—

“(A) conserving the significant historical, cultural, and natural resources that support the purpose of the Heritage Area; and

“(B) providing educational, interpretive, and recreational opportunities consistent with the resources and associated values of the Heritage Area.”

10. Amend the title so as to read: “To establish the Lackawanna Valley National Heritage Area and for other purposes.”

#### PURPOSE OF THE MEASURE

The purpose of S. 905, as ordered reported, is to establish the Lackawanna Valley National Heritage Area in the Commonwealth of Pennsylvania, and for other purposes.

#### BACKGROUND AND NEED

National Heritage Areas and National Heritage Corridors are relatively new designations which provide for a voluntary, coordinated management structure among the Federal Government, State and local governmental entities and affected landowners, to assist in local preservation and interpretation efforts. National Heritage Areas are not units of the National Park System and other than providing technical and limited financial assistance to the heritage area, does not require the involvement of Park Service personnel or extensive Federal funding commitments. No Federal land acquisition is associated with the designation of an area as a National Heritage Area. The legislation establishing a heritage area designates a local “management entity” to coordinate efforts of the various entities involved with the heritage area. In general, the authorizing legislation for a heritage area authorizes a Federal contribution of \$10 million over a 10-year period, subject to a requirement that the funds be matched from non-Federal sources.

Although the first National Heritage Corridor was designated in 1984, the designation of heritage areas has significantly increased in the past five years. Of the 18 National Heritage Areas which have been designated to date, 14 have been designated since 1994.

The Lackawanna Valley was the first of ten State heritage parks in Pennsylvania. In 1991, the Lackawanna Heritage Valley Authority was established and efforts began to formally recognize the cultural, historical, natural, and recreational values within the region. Federal, State, and local governmental agencies, along with local businesses, organizations, and individuals jointly developed the “Plan for the Lackawanna Heritage Valley.” The connection of the valley’s rich anthracite coal deposits and related industries was central theme of the plan.

#### LEGISLATIVE HISTORY

S. 905 was introduced by Senators Santorum and Specter on April 28, 1999. The Subcommittee on National Parks, Historic Preservation and Recreation held a hearing on S. 905 on July 29, 1999.

At its business meeting on September 22, 1999, the Committee on Energy and Natural Resources ordered S. 905 favorably reported, as amended.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on September 22, 1999, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 905, if amended as described herein.

#### COMMITTEE AMENDMENT

During the consideration of S. 905, the Committee adopted several technical clarifying and conforming amendments and an amendment to the title. In addition, the amendments delete the authority of the management entity to make loans to other entities, and delete a provision authorizing the use of Federal funds for building surveys from the Historic American Building Survey and Historic American Engineering Record.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* designates the bill's short title as the "Lackawanna Valley National Heritage Act of 1999".

*Section 2(a)* contains Congressional findings.

Subsection (b) states that the purposes of the bill are to: (1) foster a close working relationship among all levels of government, the private sector and local communities in the 4 counties in northeastern Pennsylvania in order to conserve local heritage and pursue economic opportunities; and (2) conserve, interpret, and develop the historical, cultural, natural and recreational resources related to the industrial and cultural heritage of the 4-county region.

*Section 3* defines key terms used in the bill.

*Section 4(a)* establishes the Lackawanna Valley National Heritage Area.

Subsection (b) designates the boundaries as all or part of Lackawanna, Luzerne, Wayne and Susquehanna counties in Pennsylvania.

Subsection (c) designates the Lackawanna Heritage Valley Authority as the management entity for the Lackawanna Valley Heritage Area.

*Section 5* directs the Secretary of the Interior to enter into a compact with the management entity. The compact is to address the objectives and management of the area including the delineation of the boundaries and the proposed conservation and interpretation measures to be taken by the partners.

*Section 6(a)* authorizes the management entity to use funds made available under this Act to hire staff.

Subsection 6(b)1 directs the management entity to develop a management plan.

Paragraph (2) requires that the plan: (1) consider other plans; (2) involve residents, agencies and organizations; and (3) include the actions to be undertaken by the partners for the protection of heritage area resources.

Paragraph (3) requires that the plan must specify existing and potential funding sources.

Paragraph (4) specifies that the plan must include: (1) an inventory of properties suitable for inclusion in the heritage area; (2) recommendations of resource management policies with specific mention of cooperative agreements consistent with compatible economic viability; (3) a program for implementation of the plan with specific mention of plans for restoration and construction and commitments from the partners for the first 5 years of operation; (4) an analysis of ways programs may be coordinated; and (5) an interpretation plan.

Paragraph (5) requires that within 3 years of the enactment of the Act, the management plan is to be submitted to the Secretary for approval. If it is not submitted by the due date, no further grants or assistance may be provided until a plan is submitted.

Subsection (c) spells out the duties of the management entity, which include: (1) implementing actions specified in the compact and management plan; (2) assisting the partners in establishing and maintaining interpretive exhibits, developing recreational resources, increasing public awareness and restoring historic buildings; (3) encouraging economic viability; (4) encouraging local governments to adopt and use policies consistent with the management plan; (5) assisting the partners to ensure that appropriate signs are placed throughout the area; (6) considering the diverse interests of the partners; (7) conducting public meetings at least on a quarterly basis; (8) submitting substantial amendments to the management plan to the Secretary for approval; and (9) submitting annual reports to the Secretary outlining accomplishments, expenses and income, while making all records available for audit (this includes the records of organizations receiving funds from the entity).

Subsection (d) prohibits funds authorized under this Act from being used for the acquisition of real property or interests in real property. However, there is no prohibition against Federal funds obtained under other laws from being used for the purposes for which they were authorized.

*Section 7(a)* specifies that the Secretary may provide technical and financial assistance to the management entity to develop and implement the management plan.

Subsection (b) requires the Secretary, in consultation with the Governor of Pennsylvania, to approve or disapprove the management plan within 90 days after its receipt by the Secretary. If disapproved, the reasons why and recommended revisions are to be provided in writing to the management entity. If a revised plan is then submitted, the Secretary has another 90 days to approve or disapprove of the plan.

Subsection (c) requires substantial amendments to the plan to be reviewed by the Secretary and provides that no funds may be spent to implement the amendments until approved by the Secretary.

*Section 8* terminates authority for Federal grants and assistance on September 30, 2012.

*Section 9* authorizes appropriations of \$10 million limited to \$1 million per fiscal year. Also, the Federal share of the cost of activi-

ties using assistance or grants cannot exceed 50 percent of the total cost.

#### COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

##### *S. 905—Lackawanna Valley National Heritage Area Act of 1999*

S. 905 would establish the Lackawanna Valley National Heritage Area in Pennsylvania. The bill would direct the National Park Service (NPS) to execute an agreement with the Lackawanna Heritage Valley Authority (LHVA) authorizing the LHVA to manage the heritage area. The bill would require the LHVA to develop a management plan for the heritage area, including an inventory of resources and recommendations for financing, managing, and protecting the area's resources. The NPS would provide technical and financial assistance to the LHVA and would approve or disapprove the management plan. The NPS's authority to assist the LHVA would expire on September 30, 2012. Finally, the bill would authorize the appropriation of \$10 million for the heritage area, not to exceed \$1 million annually.

Assuming appropriation of the authorized amounts, CBO estimates that the NPS would provide the LHVA with \$1 million for each of fiscal years 2000 through 2009, for a total cost of \$10 million. (That total could be spread over a period of up to 13 years.) Such amounts would be used to cover a portion of the costs of establishing, operating, and interpreting the heritage area. Implementing S. 905 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

The bill contains no private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). S. 905 would impose new intergovernmental mandates on the Lackawanna Heritage Valley Authority, a public entity, by requiring the development of a management plan for the heritage area and certain activities to assist local governments and other organizations. These requirements would be intergovernmental mandates, as defined in UMRA. Based on information provided by the authority, CBO estimates that the costs imposed by these mandates would be far below the threshold established by that act (\$50 million in 1996, adjusted annually for inflation). Further, the bill would authorize appropriations to cover up to 50 percent of total spending for these activities. S. 905 would impose no costs on other state, local, or tribal governments.

On August 2, 1999, CBO prepared a cost estimate for H.R. 940, the Lackawanna Valley National Heritage Area Act of 1999, as ordered reported by the House Committee on Resources on July 21, 1999. H.R. 940 contains provisions on the Lackawanna Valley Heritage Area that are similar to those in S. 905 and it also would authorize funds for another heritage area.

The CBO staff contacts are Deborah Reis (for federal costs) and Marjorie Miller (for the state and local impact). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

## REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 905. The bill is not a regulatory measure in the sense of imposing Government-established standards of significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from enactment of S. 905, as ordered reported.

## EXECUTIVE COMMUNICATIONS

On July 29, 1999, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth executive views on S. 905. These reports had not been received at the time the report on S. 905 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the National Park Service at the Subcommittee hearing follows:

STATEMENT OF DENIS P. GALVIN, DEPUTY DIRECTOR,  
NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to appear before your committee today to present the views of the Department of the Interior on S. 905, a bill to establish the Lackawanna Valley American Heritage Area in northeastern Pennsylvania. The heritage area would be located along the Lackawanna River in the Pennsylvania counties of Lackawanna, Luzerne, Wayne, and Susquehanna.

The Department supports enactment of this legislation, if amended in conformance with this testimony. The Administration, however, objects to the proposed loan authority because the bill fails to provide criteria or administrative guidelines or address the issue of possible liability.

The bill would establish the Lackawanna Valley American Heritage Area (Heritage Area) and designate the Lackawanna Heritage Valley Authority (the Authority), an already existing state-enabled regional authority, as the management entity for the Heritage Area. It would require the Authority to enter into a compact with the Secretary of the Interior to establish the Heritage Area's boundaries and to outline the goals and objectives for the Heritage Area. Within three years of enactment of the bill the Authority would submit a management plan to the Secretary of the Interior for approval. The management plan would inventory the Heritage Area's resources, recommend policies for resource management and interpretation, and provide a program for plan implementation. If the management plan is not submitted to the Secretary within the specified time, funding would no longer be authorized.

Federal funds provided under the Act would enable the Authority to make loans and grants and to enter into cooperative agreements with the Commonwealth of Pennsylvania and its political subdivisions, private organizations and persons for carrying out various activities outlined in the bill.

The bill would also authorize not more than \$1,000,000 for any fiscal year, and a total of \$10,000,000 to be appropriated to carry out its purposes, and would require a 50% match for each federal dollar. This bill also contains a sunset provision that would terminate authority for assistance after September 2012. Mr. Chairman, the funding levels and matching requirement proposed in this legislation are consistent with the levels established for the heritage areas in the Omnibus Parks and Public Lands Management Act of 1996.

The Administration has some concerns regarding this legislation. We object to the authority in section 6(a)(1) of the bill for the management entity to make loans to various entities. No criteria or administrative guidelines are provided, and possible liability is not addressed. Further, such loans would be subject to the Federal Credit Reform Act of 1990, which has management requirements that would be a tremendous burden for the management entity. As currently drafted, it is very unclear how the management entity would handle repayment of loans to the federal government if there are defaults. In effect, this bill would give a non-Federal entity authority to act as a Federal credit agency—a precedent with unforeseen implications. The Administration strongly recommends that the authority to make loans be dropped from the bill.

In section 6(c)(9)(A)(iii) there is a requirement for the management entity to report on any loans and grants that have been made with federal funds. To conform with our previous concern regarding loan authority, loans should be dropped from this section of the bill as well.

Section 7(a)(2)(A) authorizes the Secretary of the Interior to expend federal funds on non-federally owned property to further the purposes of the Act. Section 7(a)(2)(B) directs that the Historic American Building Survey (HABS) and the Historic American Engineering Record (HAER) shall conduct studies necessary to document the industrial, engineering, building, and architectural history of the region. We oppose these sections. We feel that the federal funds authorized under section 9 of this bill to go to the heritage area's management entity are for implementation of their plan so as to address these very issues. Any additional funds from the Secretary would most likely come from our construction fund or the Historic Preservation Fund, neither of which were intended to fund heritage areas nor are appropriations sufficient to cover the activities of heritage areas. Money for any studies to be performed by HABS/HAER should come from a specific heritage area's funding as part of its planning process.

Finally, we recommend changing the name of the heritage area. Over the past several years Congress has established a number of new heritage areas around the country. To be consistent with previous designations we recommend that it be named the Lackawanna Valley National Heritage Area and that sections 1, 2, 3 and 4 of the bill be amended to reflect this recommendation.

Like other heritage areas established by Congress, this legislation would provide national designation to a place where natural, cultural, historic, and scenic resources combine to form a cohesive, nationally distinctive landscape arising from patterns of human activity shaped by geography. At the center of the world's most productive anthracite field, the Lackawanna Valley fueled the spectacular growth of American cities and industry for almost one hundred and fifty years. In the process, the landscape and culture of the valley was transformed.

In the Lackawanna Valley the extraction, processing and delivery of coal were combined with the development of a very diverse, integrated industrial complex in an urban setting. Today, a mix of nationally, regionally and locally significant sites, reflecting both industry and the community remain to illustrate an important chapter in United States history. This legislation would further assist in identifying and conserving these diverse resources without adversely impacting the economic growth and stability of the region.

Congressional appropriations have directed the National Park Service to provide funding and technical assistance to the Lackawanna Heritage Valley for almost ten years. The National Park Service played a crucial role in the development of an original action plan for the Lackawanna Heritage Valley that included a statement of national significance for the area. It was that document, approved by the Governor of Pennsylvania, which enabled the area to receive designation as a State Heritage Park in 1991. The Lackawanna Heritage Valley was one of the first areas authorized in the Pennsylvania system that now includes ten state heritage areas.

In 1997 the Commonwealth of Pennsylvania's Bureau of Historic Preservation undertook a study of significance entitled "Anthracite Coal in Pennsylvania: An Industry and a Region." The study found that "from the perspective of economic, industrial, business, social, ethnic, and labor history the anthracite region and the anthracite industry are clearly of national significance."

Establishment of the Lackawanna Valley as a national heritage area would provide important resources for the ongoing conservation and interpretation of the natural, cultural, historic and recreational resources of this nationally significant region. Continued use of heritage areas by people whose traditions helped to shape the landscape enhances their significance. Federal recognition would en-



courage the continuation of local interest and pride in their culture and resources.

The Authority has already demonstrated that it uses its money well. It is particularly encouraging that as a heritage area it is getting better and stronger. The Authority is accomplishing its purpose as a management entity by focusing public and private energy and resources on the protection and interpretation of the region's distinctive characteristics and resources. The National Park Service has been a visible and effective partner, but has played a modest overall role. The Authority is the convener that has been effective in unifying a variety of diverse interests around a common agenda. The Authority has had many projects that have successfully leveraged and focused non-federal as well as federal funds from agencies other than the National Park Service.

To be successful a heritage area must have broad-based community support to take on the projects outlined in its management plan. There must also be a desire and ability to fund such projects. The Lackawanna Heritage Valley Authority appears to have broad community support, and the ability to fund projects. It has been working to successfully implement its original action plan and continues yearly to outline an aggressive agenda to work towards achieving goals focused on cultural, historic and environmental conservation, economic development, intergovernmental cooperation, and stewardship of the Lackawanna Valley's resources.

Mr. Chairman, we support this legislation with the key modifications previously discussed. It provides financial and technical assistance to an area of overriding significance in our nation's history. The work that has been accomplished to date and the relationships already established, have given the local community the ability to demonstrate that it values its resources and is willing to work effectively in partnership with federal, state and local governments to preserve them.

Thank you for the opportunity to testify before you today. This concludes my prepared remarks.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 905, as ordered reported.

